

MONTGOMERY COUNTY FIRE AND RESCUE SERVICE EXECUTIVE REGULATION

CODE OF ETHICS AND ON-DUTY PERSONAL CONDUCT

Issued by: Montgomery County Fire and Rescue Commission

Executive Regulation No. 22-00AM

Authority: Code Section 21-19 and 21-2 (d) (3)

Supersedes: Temporary Executive Regulation No. 22-00T

Council Review Method (2) under Code Section 2A-15

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Effective Date:

- SUMMARY:** This regulation adopts the Code of Ethics and On-Duty Personal Conduct establishing standards of behavior for all fire, rescue, emergency medical services, and administrative personnel.
- DEADLINES:** Montgomery County Fire Board Review: May 31, 2000
Montgomery County Register Comment: May 31, 2000
Local Fire and Rescue Depts. Review: May 31, 2000
Div. of Fire and Rescue Services Review: May 31, 2000
- ADDRESS:** Please address all comments pertaining to the proposed regulation to Beth Feldman, Montgomery County Fire and Rescue Service, 12th Floor, 101 Monroe Street, Rockville, MD, 20850. Comments may also be emailed to beth.feldman@co.mo.md.us
- STAFF:** For additional information, please call Beth Feldman, Montgomery County Fire and Rescue Service, (240) 777-2423.
- BACKGROUND:** This regulation adopts a code of ethics and personal conduct to ensure that all on-duty fire, rescue, emergency medical services, and administrative personnel conduct themselves with courtesy and professional integrity in their relationships with each other, irrespective of their MCFRS affiliation, and with the community. They must maintain an environment that is free of discrimination and harassment.

Sec. 1. **Purpose.** To adopt a code of ethics and on-duty personal conduct governing the on-duty activities and behavior of all Montgomery County Fire and Rescue Service operational and administrative personnel. This regulation is not intended to invalidate, replace, or supersede other applicable federal, State, or County laws, regulations, procedures and policies. To the extent permitted by federal, State, and County laws, regulations, procedures and policies, an LFRD or DFRS may adopt policies that may be applied to its own organization that are more stringent than this regulation.

Sec. 2. **Applicability.** This regulation applies to the on-duty conduct of all fire, rescue, emergency medical services, and administrative personnel of the Montgomery County Fire and Rescue Service. All other conduct not expressly covered by this policy is subject to applicable federal, State, and County laws, regulations, policies and procedures.

- a. County Personnel. This regulation applies to all Montgomery County Fire and Rescue Service personnel, in addition to all other applicable federal, State and County laws, regulations, policies, procedures, and applicable collective bargaining agreements.
- b. LFRD Personnel. This regulation applies to all LFRD personnel, in addition to all other applicable federal, State, County, and Local Fire and Rescue Department laws, regulations, policies, and procedures.

Sec. 3. **Definitions.**

- a. **Discrimination.** Prejudicial action, treatment, or disparagement based on an individual's race, color, religion, creed, ancestry, national origin, age, sex, marital status, sexual orientation, disability, or protected genetic information.
- b. **Division of Fire and Rescue Services (DFRS).** The Division of the Montgomery County Fire and Rescue Service comprising career employees and DFRS volunteers, that shares with the Local Fire and Rescue Departments the responsibility for providing direct fire suppression, rescue, and emergency medical services.

- c. **Division of Volunteer Fire and Rescue Services (DVFRS)**. The Division of the Montgomery County Fire and Rescue Service that, along with the Local Fire and Rescue Departments, shares with DFRS the responsibility for providing direct fire suppression, rescue, and emergency medical services.
- d. **Fire Administrator**. The non-uniformed department head of the Montgomery County Fire and Rescue Service who is appointed by the County Executive. The Fire Administrator serves as ex officio chair of Fire and Rescue Commission, and is responsible for implementing and enforcing Commission policies, administering all fire and rescue services provided in the County, and supervising the Chiefs of both the Division of Fire and Rescue Services and the Division of Volunteer Fire and Rescue Services. For the purposes of this regulation, the term “Fire Administrator” includes his or her designee.
- e. **Harassment**. Written, verbal, or physical conduct that has the purpose or effect of unreasonably interfering with any individual's work performance, or creating an intimidating, hostile, or offensive working environment.
- f. **Internal Affairs Officer**. The individual appointed by the Fire Administrator, on the recommendation of the Commission, to assist the Commission and the Administrator in monitoring compliance with law and County and Commission policies, regulations, and procedures. The Internal Affairs Officer also investigates matters assigned by the Fire Administrator or the Fire and Rescue Commission.
- g. **Local Fire and Rescue Department (LFRD)**. A component of the Montgomery County Fire and Rescue Service that provides direct fire suppression, rescue, and emergency medical services, in conjunction with DFRS.
- h. **Montgomery County Fire and Rescue Service (MCFRS)**. The combined service comprising the Division of Fire and Rescue Services and the Division of Volunteer Fire and Rescue Services that includes the Local Fire and Rescue Departments.
- i. **MCFRS Premises**. This term includes, but is not limited to: MCFRS fire and rescue stations and their operational areas; watch offices; day rooms; apparatus bays; bunkrooms; exercise areas; offices; and satellite locations.

- j. **MCFRS Private Banquet Facility.** A limited area within LFRD premises that may be designated as a private banquet facility on a temporary basis, to conduct functions officially authorized by the LFRD. The LFRD president or department head must make a written designation in the permanent official LFRD records before the function, and provide a contemporaneous notice to the Fire Administrator.

The designated area must not be used as an operational area at the same time as the function. It may be used for the consumption of food and beverages, including alcoholic beverages, during officially authorized receptions. Alcoholic beverages must not be removed from this designated area, and must not be consumed anywhere else on LFRD premises.

k. **On-Duty Personnel.**

1. For purposes of this regulation, MCFRS personnel are “on-duty” when they:
 - A. are involved with the assigned service, business, activity, or work of MCFRS;
 - B. work during scheduled hours;
 - C. act or represent MCFRS in an official capacity; or
 - D. provide direct emergency care or services to the public.
2. In addition, consistent with the Fire and Rescue Commission’s authority under County Code Sections 21-2(d)(3) and 21-19, the standards of conduct in this regulation apply to any MCFRS personnel who:
 - A. are present at, on, or in any MCFRS premises, apparatus, or vehicle; or
 - B. actively participate at a fire, rescue, or emergency medical incident.
3. Personnel may not be subject to the standards of conduct in this

regulation simply because they are in a MCFRS private banquet facility.

- l. **Personnel**. All fire, rescue, and emergency medical service personnel, including all employees and all volunteers. This includes administrative staff as well as operational personnel.
- m. **Serious violation**. An alleged incident by MCFRS personnel involving a threat to the public or personnel safety, or related to a violation that undermines the public trust and confidence in the fire and rescue service. A serious violation includes an egregious: negligent act or omission; theft of property; criminal felony; assault; battery; or other violation of law, County policy, Commission policy, or any order of the Administrator.
- n. **Sexual Harassment**. Verbal or physical conduct that may include:
 - 1. making unwelcome sexual advances;
 - 2. requests for physical conduct of a sexual nature; and
 - 3. any written, verbal, or physical conduct (including contact) of a sexual nature or conduct based on one's gender, including gender stereotyping or animus, if
 - A. an individual's submission to that conduct is made either explicitly or implicitly a term or condition of the individual's employment or membership;
 - B. an individual's submission to or rejection of that conduct is used as a basis for employment or membership decisions affecting that individual; or
 - C. that conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile, or offensive environment.

In the context of Sec. 3.n.3.A.-C., sexual harassment includes, but is not limited to: requests for sexual favors; using threats or force to obtain sexual favors; sexual propositions or innuendo; suggestive comments; sexually

oriented teasing or joking; jokes about gender-specific traits; unwelcome or uninvited touching, patting, pinching, or brushing against another's body;

obscene spoken or written language; obscene gestures; and displaying offensive or obscene printed, audio, visual, or Internet material.

- o. **Unbecoming Conduct.** Improper behavior, including any: criminal conduct; violence in the workplace as defined in this Regulation; material misrepresentation; misappropriation of funds or property; possession of illegal weapons; failure to obey safety practices; false allegation or misleading statement; dishonest, discriminatory, harassing (sexual or otherwise), or lewd act; or retaliation for a real or perceived injury.
- p. **Violence in the Workplace.** The exertion or threat of physical force by on-duty personnel that is likely to injure or abuse other MCFRS personnel or the public.

Sec. 4. **Policy.** It is the policy of the Fire and Rescue Commission to ensure that all **on-duty personnel** maintain an exemplary standard of personal integrity and ethical conduct in their relationships with each other and with the public at all times. **On-duty personnel** must conduct themselves in a professional manner that is beyond reproach.

- a. **Compliance with Other Applicable Standards.** All **on-duty personnel** must comply with all applicable federal, State, and local laws and regulations, including Fire and Rescue Commission or County policies and procedures, laws, Executive Orders, Personnel Regulations, and the County Charter. They must also conform to all laws applicable to fire, rescue, and emergency medical services, and the general public. These laws include Chapters 11B (Procurement), 19A (Ethics), and 27 (Human Rights and Civil Liberties) of the Montgomery County Code.

The **LFRDs** and **DFRS** are responsible for taking appropriate disciplinary action(s) for any violation of this Code of Ethics and On-Duty Personal Conduct by their respective **on-duty personnel**, and for immediately reporting any **serious violation** to the **Fire Administrator**.

- b. **Orders and Directives.** All **on-duty personnel** must obey a supervisor's order or directive, unless it would require the **on-duty personnel** to commit an illegal, reckless, or unethical act. A supervisor or higher ranking officer, as designated in the *Integrated Emergency Command Structure* (IECS), must not issue any order that he or she knows, or reasonably should know, would require a subordinate to commit an illegal, reckless, or unethical act, or that would violate

these or other established policies.

1. If a supervisor or higher ranking officer issues an order to an individual that conflicts with another previously issued order, policy, or procedure, the individual must immediately call attention to the conflicting order. If the conflicting order is not rescinded by the supervisor or higher ranking officer, that order will stand.
 2. The responsibility for an order rests with the individual issuing it.
- c. Personal Conduct. **On-duty personnel** must behave in a professional manner that reflects favorably on the **Montgomery County Fire and Rescue Service** at all times. They must not commit any act that constitutes **conduct unbecoming** a member of the fire and rescue service.
1. **On-duty personnel** must be courteous and respectful toward the public, each other, and one another's **MCFRS** affiliation, and maintain proper decorum and behavior. **On-duty personnel** must not use violent, insolent, or obscene language or behavior at any time.
 2. **On-duty personnel** must not refer to or speak to any other person or group in a way that may reasonably be construed as demeaning or constituting **discrimination**.
 3. All **on-duty personnel** must assure an environment free of **discrimination, harassment, or sexual harassment**. Individuals should notify another person when that person's act or behavior is offensive, or report the matter to a supervisor. **Personnel** must report acts or statements of **discrimination, harassment, or sexual harassment** to their supervisors, in accordance with federal, State, or County laws, regulations, policies, and procedures. All supervisors, through their appropriate chain-of-command, must investigate these allegations, and when appropriate, implement corrective actions.
 4. **On-duty personnel** must always behave with professionalism regarding any physical contact. Unwelcome or offensive touching is prohibited.
 5. **On-duty personnel** must not possess, be under the influence of, or consume an alcoholic beverage while on duty. In addition, **personnel**

must not consume an alcoholic beverage within four hours before going on duty.

- A. All **on-duty personnel** must not operate a **LFRD** or County vehicle while under the influence of, or within four hours after consuming any alcoholic beverage.
 - B. For formal events or official social functions to which representatives from **MCFRS** are invited because of their public service roles, capacities, responsibilities, or titles, it is recognized that serving, openly displaying, possessing, or consuming alcoholic beverages is legal. **MCFRS personnel** who attend these events may possess, consume, and openly display alcoholic beverages, as long as they do not violate other provisions of this regulation or any other law or policy.
6. **On-duty personnel** must not use, possess, or be under the influence of any narcotic or controlled dangerous substance at any time, unless prescribed for that person by a licensed health care practitioner.
- A. **On-duty personnel** must not unreasonably, improperly, or immoderately use prescription or non-prescription drugs.
 - B. **Personnel** who are taking any prescription or non-prescription medication that may at any time affect their job performance must inform their supervisor of this fact. The supervisor must facilitate a telephone or personal consultation for the individual with Montgomery County's Occupational Medical Section, a physician at a local hospital, or a physician at a County-designated health care provider, who must then inform the supervisor regarding the individual's fitness for duty. The individual must participate in, and be honest, during the consultation. The condition for which the prescription or non-prescription medication is prescribed or used must remain confidential between the individual and the health care provider.
7. **On-duty personnel** must not take, tamper with, maliciously damage, or borrow without permission any County or **LFRD** equipment or property, or the personal property of another. **Personnel** must obtain permission from

the **Fire Administrator** before putting **DFRS** property to personal use. **Personnel** must obtain permission from the highest ranking **LFRD** official or designee before putting **LFRD** property to personal use.

8. **On-duty personnel** must refrain from any horseplay that a reasonable person should know may injure someone, or damage **DFRS** or **LFRD** equipment or property, or the personal property of another.
 9. **On-duty personnel** are responsible for the conduct of their guests at all times while on County or **LFRD** property. The behavior of guests of **MCFRS personnel** must not impair, disrupt, damage, delay, or otherwise negatively affect **MCFRS** operations, or violate any provision of this regulation. If a guest fails to comply with any request to cease offensive behavior, **on-duty personnel** must notify the on-duty command officer, **LFRD** Chief, or **LFRD** President, who must take appropriate action.
 10. **On-duty personnel** must treat County or **LFRD** property appropriately, and maintain the property in good, clean, and operating condition.
 11. **On-duty personnel** must not engage in any **unbecoming conduct**.
 12. **On-duty personnel** must not alter, materially misrepresent, or otherwise misuse any **MCFRS** document, rule or regulation, policy, or financial report.
 13. **MCFRS personnel** must not make any false or misleading statements during the course of an investigation, or in order to initiate an investigation.
- d. Confidentiality. All **MCFRS personnel** have the same rights of confidentiality under Sec. 10-616(i) of the State Government Article, Maryland Public Information Act. Under this Act, a custodian of records must deny inspection of an individual's **personnel** record, regardless of whether he/she is a career or volunteer **MCFRS** member. These records include an application, performance rating, or scholastic achievement information. However, a custodian must permit inspection by the person in interest, or an elected or appointed official who supervises the work of that individual.
- e. Reports. **On-duty personnel** must submit all required reports in accordance

with established policy and procedures. The reports must be accurate, truthful, complete, and timely.

Sec. 5. **Enforcement.** The **Fire Administrator** is the enforcement authority for all policies and regulations of the Montgomery County Fire and Rescue Service.

- a. Applicable Provisions. If any applicable County law, regulation, policy, or other standard that has a specific enforcement provision is violated, the specific enforcement provision applies.
- b. Reporting Alleged Violations. If this policy is violated, or if a policy is violated for which an enforcement provision is not otherwise described, the procedure below must be followed.
 1. For an alleged violation by **on-duty LFRD personnel**, the **LFRD's** highest ranking official or designee must promptly begin an investigation.
 - A. **On-duty LFRD personnel** who witness a violation, or to whom a third party documents a violation in writing, must promptly verbally notify the highest ranking **LFRD** official when it is learned that **LFRD personnel** were involved. The initiating on-duty **LFRD personnel** must also promptly provide the highest ranking **LFRD** official with a complete written report describing the alleged violation.
 - B. **On-duty DFRS personnel** who witness a violation, or to whom a third party documents a violation in writing, must promptly verbally notify the on-duty **DFRS** District Chief. The **DFRS** District Chief must then verbally notify the highest ranking **LFRD** official. The initiating on-duty **DFRS personnel** must also promptly provide the District Chief with a complete written report describing the alleged violation. The District Chief must then provide the highest ranking **LFRD** official with a written report describing the alleged violation.
 2. For an alleged violation by **on-duty DFRS personnel**, the **DFRS** Division Chief must promptly begin an investigation.
 - A. **On-duty LFRD personnel** who witness a violation, or to whom a third party documents a violation in writing, must promptly verbally notify the highest ranking **LFRD** official when it is learned that **DFRS personnel** were involved. The highest ranking **LFRD**

official must then verbally notify his/her on-duty **DFRS** District Chief. The

initiating on-duty **LFRD personnel** must also promptly provide the highest ranking **LFRD** official with a complete written report describing the alleged violation. The highest ranking **LFRD** official must then provide the designated **DFRS** District Chief with a written report describing the alleged violation.

B. **On-duty DFRS personnel** who witness a violation, or to whom a third party documents a violation in writing, must promptly verbally notify their on-duty **DFRS** District Chief when it is learned that **DFRS personnel** were involved. The initiating on-duty **DFRS personnel** must also promptly provide the on-duty **DFRS** District Chief with a complete written report describing the alleged violation.

3. After completing an investigation, the highest ranking **LFRD** official, **DFRS** Division Chief, **DVFRS** Division Chief, or the **Fire Administrator** must promptly take appropriate action.

c. **Documentation.** When **MCFRS personnel** witness a violation, or a third party documents a violation in writing, the **LFRD** department head or designee, or the assigned **DFRS** District Chief, as appropriate, must prepare and provide a written report of each alleged violation and its disposition to their respective authorities in a timely manner.

d. **Serious Violation.** In addition to the requirements of Secs. 5.b.and 5.c., the **LFRD** or **DFRS** official who is responsible for initiating an investigation of a violation must promptly report an allegation of a **serious violation** to the **Fire Administrator**. The **Fire Administrator** must acknowledge receiving that report, and must begin investigating an allegation of a **serious violation** within 24 hours of receiving written notification, to determine whether public safety or **MCFRS personnel** safety is threatened. If the **Fire Administrator** determines that the allegation indicates that a **serious violation** has occurred, the **Fire Administrator** may immediately remove an individual from the *Integrated Emergency Command Structure*, or take other action permitted by law, pending the completion of the investigation.

1. Disposition of a **Serious Violation**.

- A. If the **Fire Administrator** is not satisfied with an **LFRD** or **DFRS** official's disposition of a **serious violation**, the **Fire Administrator**

must notify the party(ies) in writing within 30 days after the **Fire Administrator** receives notice of the action taken.

- B. The **Fire Administrator** must refer any unsatisfactory disposition by an **LFRD** or **DFRS** official to the **Internal Affairs Officer** for investigation. The **Internal Affairs Officer**, in consultation with the **Fire Administrator**, may appoint a representative ad hoc committee to help investigate technical matters. The **Internal Affairs Officer** must present a finding of facts to the **Fire Administrator**, who must then take appropriate action(s).

2. Formal Complaint of a **Serious Violation** to the **Fire Administrator**.

Upon receiving a formal complaint of a **serious violation**, the **Fire Administrator** must promptly notify the subject of the complaint of the allegation.

- A. Except for investigations identified in Sec.5.b. above: 1. where **DFRS personnel** are the subject of the complaint, the **Fire Administrator** must provide confidential notification to the **DFRS** Division Chief; and 2. where **LFRD personnel** are the subject of the complaint, the **Fire Administrator** must provide confidential notification to the highest ranking **LFRD** official. The **DFRS** Chief and the highest ranking **LFRD** official must hold this information as confidential and must not divulge it to any other party, except for those authorized to participate in the investigation or disposition of the matter. Those authorized individuals must also keep this information confidential.
- B. The subject of the complaint must be informed of the initiation of an investigation, except for allegations of criminal conduct, **sexual harassment**, Title VII violations, or other conduct for which investigatory procedures are covered by another law, regulation, or

policy.

3. Representative during Investigation of a **Serious Violation**. During the investigation of a **serious violation** of which the subject of the complaint must be notified under Sec. 5.d.2.A., **LFRD personnel** and **DFRS** bargaining unit employees may have a representative present during an investigative interview. Provisions for representation must not

unreasonably delay proceeding with the investigative interview or the conduct of the investigation. Representation may continue throughout the investigative and disciplinary process. Interviews of **DFRS personnel** must be conducted in accordance with applicable provisions of the collective bargaining agreement or County Personnel Regulations.

- e. **Violence in the Workplace**. **Violence in the workplace** is strictly prohibited, and is considered a **serious violation** under this policy.
 1. Upon receiving a report of an occurrence of **violence in the workplace**, the **Fire Administrator** must promptly consult with the highest ranking **LFRD** official, **DFRS** Chief, or **DVFRS** Chief, as appropriate.
 2. If immediate action is necessary to maintain **personnel** and public safety, and safe fire and rescue service operations, the highest ranking **LFRD** official, **DFRS** Chief, **DVFRS** Chief, or the **Fire Administrator** must remove **personnel** from **MCFRS premises** or from their duty assignment, pending an investigation or other appropriate action taken by the highest ranking **LFRD** official, **DFRS** Chief, **DVFRS** Chief, or the **Fire Administrator**.
- f. **Appeals**. An appeal of decisions or orders of the **Fire Administrator** to the Fire and Rescue Commission, or decisions or orders of the Fire and Rescue Commission, must be processed according to Chapter 21-7 of the County Code, or other applicable laws, policies, or regulations.

Sec. 6. **Evaluation**. The Fire and Rescue Commission should periodically evaluate the application and effectiveness of this regulation. This evaluation may include soliciting input from all areas of the **MCFRS** community and the public by using questionnaires, Town Meetings, or other public forums.

Sec. 7. **Severability.** If a court of final appeal holds that part of this regulation is invalid, the invalidity does not affect other parts of the regulation.

Attest:

Gordon A. Aoyagi, Chairman
Montgomery County Fire and Rescue Commission

Date